

highest DDP score for each individual. Corrected or updated DDP scores shall be implemented in accordance with paragraph (5) of Attachment 4.19-B Page 3h of this State Plan. The total number of persons assigned to each percentile level grouping shall be multiplied by the dollar amount associated with that percentile level grouping. Total dollars for each percentile level shall be summed together and divided by the number of persons for whom there are DDP scores.

- (b) Case Mix Intensity Component Add-On: The highest single DDP percentile ranking for each individual program participant in any one of the three DDP scoring categories, adaptive, maladaptive and health/medical, shall be summed and divided by the total number of program participants with DDP scores, yielding an average percentile level grouping for each program. The Day Treatment program shall receive the per person dollar amount associated with the identified average percentile level grouping.
- (c) Staff Training Component - The add-on shall be \$.32.
- (d) The Utilities Component shall be the amount of utilities as reported in the appropriate cost report identified in paragraph (1), divided by the units of service.
 - (1) The utilities amount shall reflect the costs on an annual basis trended by an amount to be determined by the commissioner.
 - (2) A day treatment program shall receive the statewide median for utilities if the most recent cost report identified by paragraph (1) is not available, or does not cover the full period of the cost report.
 - (3) Utilities may be updated to reflect actual costs and/or cost increases due to expansion of the physical plant.
- (e) Salary Component - The salary component of the fee shall be computed as follows:
 - (1) An agency specific salary per FTE shall be computed for each agency. The agency specific salary per FTE shall be calculated as follows: For non-State operated Day Treatment programs that filed full year cost reports for either the January 1, 1988 through December 31, 1988 or July 1, 1988 through June 30, 1989, the total

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agency Day Treatment non contracted personal service costs for each Day Treatment program shall be divided by the total reported agency Day Treatment FTEs for each program and then multiplied by .9533 in order to reflect a median Day Treatment salary for each agency. The non contracted personal service costs reported on the January 1, 1988 through December 31, 1988 cost report shall be inclusive of 9 months of salary enhancement for programs that participated in the salary enhancement program of previously approved State Plan Amendment 88-48. For State operated Day Treatment programs that filed full year cost reports for the period April 1, 1989 through March 31, 1990, the statewide Day Treatment non contracted personal service costs for all state operated Day Treatment programs shall be divided by the total reported Day Treatment FTEs for all state operated Day Treatment programs and then multiplied by .9533 in order to reflect a median Day Treatment salary. The agency salary for all State operated and non-State operated programs that did not file full year cost reports, will be adjusted to reflect the agency salary of other existing Day Treatment programs operated by the provider. If the provider does not operate other Day Treatment programs, the Day Treatment agency salary shall be equal to the agency salary of ICF/DDs and/or Community Residences operated by the providers. Day Treatment agency salaries derived from other Day Treatment programs or ICF/DD and/or Community Residence programs operated by the provider shall be adjusted by .9533 to reflect a median Day Treatment agency salary. If the provider does not operate any other Day Treatment, ICF/DD or Community Residence programs, the agency salary per FTE shall be equal to the Day Treatment Statewide median salary of \$16,799. Day Treatment programs that have not filed full year cost reports for the periods identified above, will be considered to be in a Deficit (I) in accordance with item (3) below.

- (2) The agency salary per FTE shall be compared to the Day Treatment Statewide median salary of \$16,799.
- (3) Surplus/Deficit (I) - A surplus/deficit analysis shall be computed for each Day Treatment program that filed 12 month cost reports for January 1, 1988 through December 31, 1988, July 1, 1988 through June 30,

1989, and April 1, 1989 through March 31, 1990. For non-State operated Day Treatment programs in Regions II and III and those programs in Region I elected to or designated to a Region II and III year end and fiscal cycle, the January 1, 1990 Day Treatment fixed amount and operating cost components in effect as of October 1, 1990, shall be detrended and compared to the operating costs from the January 1, 1988 through December 31, 1988 cost report. For non-State operated Day Treatment programs in Region I and those programs in Regions II or III elected to or designated to a Region I year end and fiscal cycle, the July 1, 1990 Day Treatment fixed amount and operating cost components in effect as of October 1, 1990, shall be detrended and compared to the operating costs from the July 1, 1988 through June 30, 1989 cost report. For State operated Day Treatment programs, the April 1, 1990 Day Treatment fixed amount and operating cost components, shall be detrended and compared to the operating costs from the April 1, 1989 through March 31, 1990 cost report. The surplus or deficit derived from this analysis shall be titled Surplus/Deficit (I). The Surplus/Deficit I shall not be computed for budget-based sites.

- (4) Salary component add-ons in accordance with the schedule identified below shall be added to fixed amount for each Day Treatment site.
 - (i) If the agency salary per FTE pursuant to item (2)(v)(e)(1) above is greater than the 50th percentile of the statewide Day Treatment industry and the Day Treatment program is experiencing a Surplus (I) in accordance with item (2)(v)(e)(3) above, the salary component shall be \$6.10.
 - (ii) If the agency salary per FTE pursuant to item (2)(v)(e)(1) above is greater than the 50th percentile of the Day Treatment industry and the Day Treatment program is experiencing a Deficit (I) in accordance with item (2)(v)(e)(3) above, the salary component shall be \$6.10 plus the amount of costs equal to the agency salary per FTE divided by the Statewide salary of \$16,799 multiplied by \$29.09, minus \$29.09. 21.2 percent fringe is added to this amount.

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- (iii) If the adjusted agency salary per FTE pursuant to item (2)(v)(e)(1) above is greater than the 40th percentile or equal to the Day Treatment Statewide salary of \$16,799, the salary component add on shall be \$6.10.
- (iv) If the adjusted agency salary per FTE pursuant to item (2)(v)(e)(1) above is equal to or greater than the 30th percentile or less than the 40th percentile of the Day Treatment industry, the salary component add on shall be \$3.89.
- (v) If the adjusted agency salary per FTE pursuant to item (2)(v)(e)(1) above is equal to or greater than the 20th percentile or less than the 30th percentile of the Day Treatment industry, the salary component add on shall be \$2.37.
- (vi) If the adjusted agency salary per FTE pursuant to item (2)(v)(e)(1) above is equal to or greater than the 10th percentile or less than the 20th percentile of the Day Treatment industry, the salary component add on shall be \$1.50.
- (vii) If the adjusted agency salary per FTE pursuant to item (2)(v)(e)(1) above is less than the 10th percentile of the Day Treatment industry, the salary component add on shall be \$0.

- (f) Salary Enhancement Cost Adjustment Component Add-On - The fixed amount for non-State operated Day Treatment programs that participated in the salary enhancement plan pursuant to previously approved State Plan Amendment 88-48 during the period April 1, 1988 through December 31, 1988 and submitted a 12 month cost report for the same period, shall receive a salary enhancement cost adjustment component add-on. Budget based Day Treatment programs in Regions II and III whose agency salary per FTE pursuant to item (2)(v)(e)(1) above, is equal to the agency salary of other existing Day Treatment programs operated by the same provider shall also receive the salary enhancement cost adjustment component add-on. The salary enhancement cost adjustment component may be revised to reflect additional FTEs for programs that have experienced a capacity change resulting in the issuance of a new operating certificate.

- (1) The salary enhancement cost adjustment component shall be calculated as follows:
 - (i) For Day Treatment programs in Region II, the total number of direct care and support FTEs shall be multiplied by 25 percent of \$1,900 and increased by a fringe benefit factor of .212 percent and divided by the units of service pursuant to paragraph (1).
 - (ii) For Day Treatment programs in Region III, the total number of direct care and support FTEs shall be multiplied by 25 percent of \$1,690 and increased by a fringe benefit factor of .212 percent and divided by the units of service pursuant to paragraph (1).
- (g) Cap adjustment component add-on and allocation adjustment component add-on.
 - (1) In order to determine eligibility for either the Cap Adjustment Component add-on or the Allocation component add-on, a surplus/deficit analysis shall be computed for each Day Treatment program using operating fees determined in accordance with subparagraphs (2)(iv) and (v)(a) - (f) [and the actual units of service from the appropriate 1988 cost report for non state operated programs and the April 1, 1989 through March 31, 1990 cost report units of service for state operated programs. As appropriate, operating fee revenues shall be compared to appropriate adjusted program specific operating costs from either the January 1, 1988 through December 31, 1988 or July 1, 1988 through June 30, 1989 or the April 1, 1989 through March 31, 1990 cost reports. The surplus or deficit derived from this analysis shall be titled Surplus/Deficit (II).
 - (2) Day Treatment programs determined to be in a Deficit (II) pursuant to subclause (1) above that received salary components in accordance with items subclause (2)(v)(e)(4)(i) shall receive a cap adjustment component equal to the Deficit (II) divided by the units of service.
 - (3) Day Treatment programs determined to be in a Deficit (II) pursuant to clause (1), that received salary components in accordance with item (2)(v)(e)(4)(iii) through (vii) shall receive an allocation component equal to \$3.07.

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- (h) The capital component add-on shall be the amount of allowable capital costs and start-up costs divided by the units of service figure. Such allowable capital costs and start-up costs may include the cost of principal and interest payments on loans from the NYS Facilities Development Corporation (hereinafter referred to as FDC) pursuant to subdivision 13-d of section 5 of the Facilities Development Corporation Act, net of the portion of such payments attributable to operating costs; provided that the reimbursement of FDC loan payments is an allowance in lieu of reimbursement of interest and depreciation associated with the mortgaged property and/or in lieu of reimbursement for allowable start-up costs and in lieu of reimbursement for other underlying allowable costs for which the FDC loan was received. A provider which receives an FDC loan pursuant to subdivision 13-d of section 5 of the Facilities Development Corporation Act, does not have the option of having included in the calculation of its rate otherwise allowable interest, depreciation, start-up costs, or the loan's underlying costs instead of the allowance representing principal and interest. Capital costs and start-up costs shall be from the best available and documented data that reflects the cost expected to be incurred during the fee period. For property acquired or leased on or after January 1, 1986 prior approval by OMRDD and the Division of the budget shall be required in order for such property costs to be reimbursed in the fee. At the onset of each fee period, the OMRDD shall review the capital component add-on for substantial material changes. If said changes are allowable, the capital component shall be revised.
- (3) For the January 1, 1991 to December 31, 1991, April 1, 1991 to March 31, 1992 and the July 1, 1991 through June 30, 1992 fee periods, the final fee shall be equal to the capital component calculated in accordance with (h) above plus the greater of (i) or (ii) below. For the January 1, 1992 through December 31, 1992, April 1, 1992 through March 31, 1993 and the July 1, 1992 through June 30, 1993 fee periods, and thereafter, the final fee shall be equal to the property and equipment component calculated in accordance with clause (h) of this state plan plus subparagraph (ii) of this paragraph:
- (i) For non-State operated programs in Region I and those non-State operated programs designated or elected to a Region I year end and fiscal reporting cycle, 99.5 percent of the fixed fee and operating components contained in the June 30, 1991 fee trended to the July 1, 1991 to June 30, 1992 fee period. For non-State operated programs in Regions II and III and those non-State operated programs designated or elected to a Region II or III year end reporting and fiscal cycle, in 99.5 percent of the fixed amount and operating components contained in the December 31, 1990 fee trended to January 1, 1991 to December 31, 1991 fee period. For State operated programs, 99.5 percent of the fixed fee and operating components contained in the March 31, 1991 fee trended to the April 1, 1991 through March 31, 1992 fee.

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- (ii) The fixed fee and operating components determined in accordance with subsection (2) of this State Plan trended to the appropriate fee period.
- (4) The final adjusted fee shall be equal to the final fee determined in subsection (3) above except as provided below as follows:
- (i) Non-state operated Day Treatment programs in Regions II and III including those programs in Region I designated or elected to a Region II and III year-end reporting and fiscal cycle shall receive the annualization component add-on for the period April 1, 1991 to December 31, 1991. The annualization component add-on shall be equal to the difference between the fee in effect on March 31, 1991 and the April 1, 1991 final fee calculated pursuant to subsection (3) for the period January 1, 1991 to March 31, 1991 divided by the units of service pursuant to subsection (1). The annualization component add-on shall be added to the final fee determined in accordance with subsection (3) above, and the resulting fee shall be considered the final adjusted fee.
- (ii) The final adjusted fee for non-state operated Day Treatment programs in Region I and those facilities designated or elected to a Region I year-end fiscal cycle and state operated Day Treatment programs shall be equal to the final fee determined in accordance with subsection (3) above.
- (iii) For eligible facilities, the final fee shall be adjusted to include an amount in accordance with subsections (10) and (11).
- (5) The commissioner may make corrections to the fees based upon the following:
- (i) Errors which occurred in the computation of the fee.
- (ii) Final audit findings.
- (iii) The Day Treatment provider may request corrections to the fee within 90 days of receipt of the fee. Such corrections are limited to errors in the cost report and corrections to the DDP. If corrections to the DDP would result in an increase to the final adjusted fee, the commissioner may independently review the corrected DDPs. During the period when the commissioner is reviewing the provider-submitted revised DDP data, the DDP in the fee at the time of review shall remain in effect. Should the commissioner's review verify the provider-submitted revisions to the DDP data, said revised DDP data shall be utilized for fee-setting purposes retroactive to the first day of the fee period. The case mix component add-on and the case mix intensity component add-on may be recalculated only if there is a 10 percent or greater change in participants resulting from either a change in certified capacity or a turnover in program participants, or a correction to the DDP score approved by the commissioner. Day Treatment providers must report to OMRDD Rate Setting all participant changes greater than 10 percent.

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- (iv) Corrections to the transportation component add-on pursuant to subsection (10) of Attachment 4.19-B of this State Plan.
- (v) Adjustment to actual units of service.
 - (a) OMRDD may, upon request from a Day Treatment provider, adjust the units of service used for the program's calculation for the prior fee period to actual units of service delivered during such fee period. However, such adjustment will be limited to situation where the Day Treatment provider demonstrated the Day Treatment program was in a deficit situation for the prior fee period and has for reasons beyond its control not been able to deliver the units of service used to calculate the fee for the prior fee period.
 - (b) The Day Treatment provider must request adjustments to the program's actual units of service within [90] 150 days of the close of the [fee] fiscal reporting period for which the said adjustment is sought.
- (6) All fees and any corrections to fees shall not be considered final unless approved by the director of the Division of Budget.
- (7) To encourage the closure of developmental centers, the commissioner will consider proposals to allow the variable costs associated with the closed center or center to become part of the operating expenses of new or existing state operated Day Treatment programs. The commissioner will allow a reasonable incentive plan for the reimbursement of the increased costs referred to above in state operated Day Treatment programs if it is coupled with the closure of a developmental center. An incentive plan would provide for the reimbursement in total of closure related increased costs in the state operated Day Treatment programs without adjustment or offsets.
 - (i) The following reimbursement schedule will be used for proposals approved by the commissioner:
 - (a) 100% reimbursement of the increased cost for at least one full fee period but less than two full fee periods.
 - (b) 75% reimbursement of the increased cost for the second full fee period following the period defined in subsection (7)(i)(a) above.
 - (c) 50% reimbursement of the increased cost for the third full fee period.
 - (d) 25% of the increased cost for the fourth full fee period.

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- (ii) Costs to be eligible for this incentive plan will include but not be limited to direct care, support and clinical personal service and fringe benefit amounts for employees whose most recent prior employment was at a closed or scheduled to close developmental center.
- (a) In order to have the cost of a former developmental center employee included in the incentive plan, the state operated [facility] Day Treatment program applying for a fee adjustment pursuant to subsection (7) must hire such employee within twelve months of the official closing date of the developmental center.
- (b) Salaries and fringe benefit amounts paid to eligible employees by the new program may not exceed the average salary and fringe amounts paid to comparable employees currently on that [facility's] payroll.
- (c) Any claim made under this provision is subject to audit as noted in section (5)(ii).
- (iii) Incentive plan applications shall be made in writing to the commissioner.
- (a) The application shall identify the employees, their job titles, salary levels, date hired, and the B/DDSO of previous employment.
- (b) OMRDD may request such additional information as it deems necessary.
- (8) To accelerate the closure and to encourage a reduction in the size of developmental centers, the commissioner will consider proposals to allow the variable costs associated with a developmental center to become part of the operating expenses of new and existing state operated Day Treatment programs. The variable costs associated with the developmental center will be allowed for the transition which is the period beginning on the date an official announcement to close a [facility or facilities] center or centers and ending on the date of actual closure. Also variable costs associated with the conversion of beds which is a substantial material change in the [facility] center census will be allowed. The commissioner will allow a reasonable incentive for the reimbursement of the increased costs referred to above in the state operated [community facilities] Day Treatment programs during the transition and/or conversion period.
- (i) The commissioner will allow the following reimbursement for approved proposals:

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- (a) 75 % reimbursement of the increased costs incurred during the transition[al] closure period. On the effective date of closure, reimbursement of increased costs will be considered under subsection (7).
 - (b) 75 % reimbursement of the increased costs incurred during the conversion period. The conversion period will be for at least one full fee period but less than two full fee periods. If during the conversion period, an official announcement of closure occurs, the reimbursement of increased costs may be considered under subsection (7)(i)(a).
- (ii) Costs to be eligible for this incentive plan will include but not be limited to direct care, support and clinical personal service and fringe benefit amounts for employees whose most recent prior employment was at a closed or scheduled to close developmental center.
- (a) In order to have the cost of a former developmental center employee included in the incentive plan, the [community facility] Day Treatment program applying for a fee adjustment pursuant to subsection (7)(iv) must hire such employee during the transition[al] and conversion periods.
 - (b) Salaries and fringe benefit amounts paid to eligible employees by the [facility] Day Treatment program cannot exceed the average salary and fringe benefit amount paid to comparable employees currently on that [facility's] program's payroll.
 - (c) Any claim made under this provision is subject to audit as noted in section (5)(ii).
- (iii) Incentive plan applications from the provider shall be made in writing to the commissioner.